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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 25 1998

In the Matter of

Federal-State Joint Board on Universal
Service Forward-Looking Mechanism for
High Cost Support for Non-Rural LECs

) CC Docket No. 98-45,
) CC Docket No. 97-160
)
) Public Notice DA 98-1055;
) APD No. 98-1

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**COMMENTS OF THE STATE OF HAWAII
DIVISION OF CONSUMER ADVOCACY**

The State of Hawaii Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Hawaii Consumer Advocate") hereby comments on the cost study submitted by the State of Hawaii Public Utilities Commission ("HPUC") for use in calculating federal universal service high cost support ("HPUC Study" or "Study") for GTE Hawaiian Telephone Company Incorporated ("GTE Hawaiian Tel").¹

I. INTRODUCTION & SUMMARY

The Hawaii Consumer Advocate conditionally recommends that the Federal Communications Commission ("Commission") approve the Study submitted by the HPUC. The Hawaii Consumer Advocate believes that the HPUC was correct in employing the Hatfield Model Release 3.1 Modified-Hawaii ("HM3.1 Modified-Hawaii") in its Study because it is clearly the better of the alternatives

¹ See Public Notice, "Common Carrier Bureau Seeks Comment on State Forward-Looking Cost Studies for Universal Service Support, DA No. 98-1055, APD No. 98-1 (June 4, 1998) (directing that comments must be filed by June 25, 1998 and reply comments must be filed by July 9, 1998).

available to the HPUC and it satisfies the criteria specified in Paragraph 250 of the *Universal Service Order*.²

The Hawaii Consumer Advocate conditions its support, however, on certain qualifications. Specifically, in adopting the HPUC Study, the Commission should acknowledge that the HPUC can and should continue to modify and improve its model after it has been adopted by the Commission. In making these improvements, the HPUC should adopt a geographic unit of analysis that is consistent with the unit of analysis adopted by the Commission for high cost support calculation. The HPUC Study should also utilize a percentage value for the loop costs assigned for calculating of universal service support that is coordinated with the established benchmark.

II. THE COMMISSION SHOULD ESTABLISH A PROCESS THROUGH WHICH THE STATE CAN MODIFY AND IMPROVE ITS FORWARD-LOOKING MODEL AND DATA INPUTS AFTER IT HAS BEEN ADOPTED BY THE COMMISSION.

The Hawaii Consumer Advocate believes that the Study provided by the HPUC is the best alternative for the State of Hawaii ("the State") based on the information and procedures currently available. The Hawaii Consumer Advocate is confident, however, that in the near future improved models and better data are likely to result in significant improvements to the HPUC study. As the Commission acknowledged in its *Universal Service Order*, in the last few years intense work on models of this type and their associated data needs has produced a number of improvements and modifications to cost models.³ This process of improvement is likely to continue. In addition, input values are certain to change over time.

² See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776 (1997) ("Universal Service Order"), petition for review pending sub nom., *Texas Office of Public Utility Counsel v. FCC*, No. 97-60421 & consolidated cases (5th Cir.).

³ *Id.* at 8904-06 (discussing ongoing improvements to cost models and data inputs).

In light of this process of improvement, the Hawaii Consumer Advocate believes that the State must maintain the flexibility to take advantage of better modeling methods and changed inputs. We understand that a model accepted by the Commission for calculating federal high cost support must be “used by the state to determine intrastate universal service support levels pursuant to 254(e).”⁴ The Hawaii Consumer Advocate is concerned however, about whether the Commission has created an adequate mechanism to permit the State to improve its cost model and incorporate new inputs once the model has been adopted. In the *Universal Service Order*, the Commission acknowledged that “significant unresolved problems” remained with each of the proposed cost models and a need existed to make “collective revisions.”⁵ The Commission did not make clear, however, that the process of improvement can and should continue even after a state recommends a specific model and it has been adopted by the Commission for use in calculating support.

To correct this situation, the Hawaii Consumer Advocate recommends that the Commission expressly acknowledge that the State is permitted to incorporate changed inputs and improved modeling in its intrastate universal service cost studies and forward these improvements to the Commission to be used in the Commission’s federal high cost studies for Hawaii. The lack of a Commission-authorized process that is responsive to future events would undermine the use of appropriate models and inputs, jeopardizing the development of cost-effective universal service support. Therefore, the Hawaii Consumer Advocate believes that if the Commission is unable to establish a process through which the State can initiate modifications to its model within the constraints of the Commission’s ten criteria, then the HPUC Study should not be adopted for calculating Hawaii’s universal service high cost support.

⁴ *Id.* at 8916-17.

⁵ *Id.* at 8909.

III. IN IMPROVING THE HPUC STUDY, THE HPUC SHOULD USE THE SAME GEOGRAPHIC UNITS AS THOSE EVENTUALLY ADOPTED BY THE STATE FOR PRICING UNBUNDLED NETWORK ELEMENTS.

One of the Commission's primary goals in requesting the State to submit a forward-looking cost study was to encourage the State to coordinate its universal service support mechanism with its pricing for unbundled network elements ("UNEs").⁶ The Commission indicated that such coordination could "improve regulatory consistency and avoid such marketplace distortions as unbundled network element cost calculations unequal to universal service cost calculations for the elements that provide supported services."⁷ The Commission also encouraged coordination in order to "diminish arbitrage opportunities."⁸

Unfortunately, it is premature to consider whether the HPUC has been successful in coordinating between universal service support and UNE pricing because the HPUC has not yet adopted a geographic distribution for UNE pricing.⁹ Once the HPUC does adopt its UNE pricing, the Hawaii Consumer Advocate believes that the universal service support calculations used in the HPUC Study should be deaveraged to the same geographic units as those for which UNEs have been priced

⁶ See *id.* at 8911-12. For example, the Commission indicated that if UNEs are available and priced by wire center, high cost support should be calculated by wire center. If UNEs are priced by different geographic units, high cost support should be calculated by those other units. Using a consistent unit of analysis for high cost calculation and UNE pricing prevents opportunities for over-recovery of costs by eligible carriers and removes an impediment to competition. In contrast, if UNEs were priced on a statewide average while high cost support was determined by wire center, windfalls could accrue to carriers using supported high cost loops and paying the averaged UNE price.

⁷ *Id.* at 8912.

⁸ *Id.* at 8916.

⁹ An Order including this issue is pending before the HPUC in Docket Number 7702.

and made available.¹⁰ If the HPUC selects a geographic unit for pricing UNEs that cannot be matched for high cost support calculation (for example, a unit larger than a wire center), the Hawaii Consumer Advocate recommends that the HPUC Study should not be adopted by the Commission for calculating Hawaii's universal service high cost support because of the distorting impact that could result on competition.

IV. THE FORWARD-LOOKING COST MODEL ADOPTED FOR HAWAII SHOULD UTILIZE A LOOP COST PERCENTAGE VALUE THAT IS CONSISTENT WITH THE BENCHMARK THAT IT WILL BE COMPARED WITH FOR HIGH COST DETERMINATION.

The HPUC Study includes a feature that allows the modeler to specify that portion of the loop cost to be included in the calculation of the cost of Universal Service Funding ("USF").¹¹ In the Study, the HPUC indicated that it mandated certain "Hawaii-specific changes," among which is that "[t]he percentage of the loop assigned for USF is 90 percent."¹² The HPUC does not explain the basis for selecting 90 percent as the portion of the loop to be assigned to supported services for identifying

¹⁰ The Commission has determined that a state's "cost study or model must deaverage support calculations to the wire center serving area level at least." *Universal Service Order*, 12 FCC Rcd at 8915 (included as criterion number 10).

¹¹ This feature is accessed by clicking on "View Expense Results" and selecting the USF sheet after the model has been run. This Excel output table contains two columns, "Total annual support for specified line types" and "@25% Federal allocation." The value for "Total annual support . . ." is equal to the total support calculated by the model. From this evidence, the Hawaii Consumer Advocate concluded that the costs under study in the model are total regulated costs, rather than jurisdictionally separated, costs.

¹² State of Hawaii Public Utilities Commission, *Submission of Cost Study for the State of Hawaii; Hatfield Model Release 3.1 Modified-Hawaii*, at 5-6, 25 (April 23, 1998).

high cost areas, so we are uncertain about what approach to loop cost allocation the 90 percent value is intended to implement.¹³

In light of this uncertainty, the Hawaii Consumer Advocate recommends that the assignment of a loop cost percentage value should be consistent with the composition of the benchmark to which the cost calculations will be compared for high cost determination. If the Commission establishes a revenue benchmark for high cost determination in accordance with the Joint Board's recommendation "based on average revenues per line for local, discretionary, interstate and intrastate access services, and other telecommunications revenues,"¹⁴ then a 90 percent assignment of loop cost may be an appropriate reflection of the share of the loop that should be allocated to these services. In contrast, if the benchmark for high cost determination is established based on the cost of providing basic service per access line,¹⁵ then the percentage of loop cost assigned to supported services should be less than 90 percent in order to better reflect the share of the loop cost attributable to discretionary services.

V. CONCLUSION

The Hawaii Consumer Advocate conditionally requests that the Commission accept the HPUC Study for calculating Hawaii's high cost support. The Hawaii Consumer Advocate's support is conditioned, however, on the following requested improvements and clarifications: (1) the Commission should acknowledge that the State can modify its forward-looking model after it has been

¹³ This issue, like the geographic unit for UNE pricing, is among those to be resolved in a pending order in HPUC Docket No. 7702. In that docket, the Hawaii Consumer Advocate recommended that 25 percent of the loop cost be allocated to intraLATA toll services.

¹⁴ *Universal Service Order*, 12 FCC Rcd at 8919. The Hawaii Consumer Advocate recommends that access revenues include the imputed access revenues of the local exchange carrier.

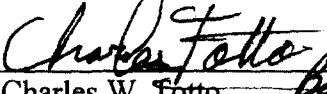
¹⁵ Hawaii has adopted the cost approach. See Hawaii Administrative Rules §6-81-52(b) ("An area is not a high cost area unless the cost of providing basic service per access line in the area is more than one hundred and twenty per cent of the statewide weighted average cost of providing basic service per access line.").

adopted, (2) the geographic unit of analysis should be made consistent with the eventual pricing of UNEs, and (3) the percentage of the loop cost assigned for calculating supported costs should be appropriately coordinated with the established benchmark.

Respectfully submitted,

THE STATE OF HAWAII

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June 25, 1998